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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,900	02/25/2005	Claude Pommerau	1606.72574	9652
24978 7590 04/14/2009 GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606				
EXAMINER				
BUTLER, MICHAEL E				
ART UNIT		PAPER NUMBER		
3653				
MAIL DATE		DELIVERY MODE		
04/14/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/525,900

**Applicant(s)**

POMMEREAU, CLAUDE

**Examiner**

MICHAEL E. BUTLER

**Art Unit**

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 2-6, 9-14, 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1, 7, 8, 15, 16, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

***Priority***

1. Applicant's claim of priority as a national stage 371 application of application of **PCT/FR03/02655** with **International Filing Date of 09/05/2003** which claims priority to application 0211090 filed 9/6/2002 in France is acknowledged.

***Election/Restriction***

2. Applicant's election of species II without traverse of the election of species requirement is acknowledged and was made final.
3. Claims 2-6 and 9-16 and 19-17 were withdrawn from further consideration.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 7-8, 15-16, and 28-29 are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant has conjoined elements using "OR" (claim 1 final line) creating vague and indefinite language as to the scope of the claim protection sought- sought-alternate embodiments or a devices capable of reconfiguration for sans counterweight or sans return spring. Appropriate correction is required. The claims have been otherwise examined on the merits presuming Boolean "OR."

Applicant has further created indefiniteness as to the precedence of the nesting of "without" vs. the OR operator-is applicant attempting to claim without a counter weight or is presence of the counterweight an alternative to without a spring?

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.  
the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States  
the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claim(s) 1, 15-16 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Wang 5549518 which discloses all the claimed elements including: a golf ball dispenser comprising: an upper container to contain golf balls (2 ), flange to receive the balls coming from the container (c2 L 35-45) a pivotal supply arm (32), pivoting means (31) arranged in the upper end of the dispenser arm to close the flange (when pivoted to the down position 34 moves into the ball blocking position), without a return spring or a counterweight (4), arm comprising a brake for accurate depositing of the golf ball (322), the brake, comprising a bend (322).

8. Claim(s) 1, 7-8, is/are rejected under 35 U.S.C. 102(b) as being anticipated by Smith 5624325 which discloses all the claimed elements including: a golf ball dispenser comprising: an upper container to contain golf balls (46), flange to receive the balls coming from the container (40) a pivotal supply arm (20), Pivoting means (48) arranged in the upper end of the dispenser arm to close the flange (when pivoted about 48, 72 is positioned to block plural balls moving; C5L 18-28; c5 L 60-c6 L 14), upper arm comprises a means for singulating balls in dispenser arm (70; c6 L 7-10), the means comprising a rim arm (70; c6 L 7-10).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim(s) 1 and 28-29 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Hodgin 3738662 wherein the Smith discloses the elements previously discussed and Hodgin 3738662 discloses any elements not inherently taught by the former including: plural non-concentric rings for slowing down the drop of the ball, the distance between concentric rings decreasing closer to the arm lower end (80, rings at end of arm),

It would have been obvious at the time of the invention for Smith to use rings to slow the ball and avert the ball bouncing off the arm or tee as taught by Hodin.

11. Claim(s) 1 and 28-29 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang 5549518 in view of Hodgin 3738662 wherein the Wang discloses the elements previously discussed and Hodgin 3738662 discloses any elements not inherently taught by the former including: plural non-concentric rings for slowing down the drop of the ball, the distance between concentric rings decreasing closer to the arm lower end (80, rings at end of arm),

It would have been obvious at the time of the invention for Wang to use rings to slow the ball and avert the ball bouncing off the arm or tee as taught by Hodin.

***Response to Amendments/Arguments***

12. The section of 609.04(a) applicant quotes is more specifically 609.04(a)II-the section related to the requirements of supplying foreign patent documents. Applicant's asserts the office needs consider his foreign language documents in the same manner as a non-English language information. The references were treated in the same manner as a non-English documents in the Office shoes. More specifically, section III of 604.04(a) details the requirements for satisfying the statement of relevance for a non-English document. Section III states each information disclosure statement must include concise explanation relevance. As such the of the objection to the French reference and the German reference on the 6/22/2005 IDS was proper.

The applicant's arguments have been fully considered but they are unpersuasive in overcoming the rejections evidenced by Wang, Smith, or Smith in view of Hodgins.

Wang is without a return spring. As such Wang reads on at least one of applicant's negative limitation alternatives. Further, Wang has a counterweight as an alternative to without a spring.

Smith is without a counterweight for returning the spring arm. As such Smith reads on at least one of applicant's negative limitation alternatives.

***Conclusion***

13. Applicant's amendment necessitated the new grounds for rejection. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. E. B./

Examiner, Art Unit 3653

/Patrick H. Mackey/

Supervisory Patent Examiner, Art Unit 3653



**Search Notes (continued)****Application/Control No.**

10/525,900

**Examiner**

MICHAEL E. BUTLER

**Applicant(s)/Patent under  
Reexamination**

POMMEREAU, CLAUDE

**Art Unit**

3653

**SEARCHED**

Class	Subclass	Date	Examiner
221	174	4/11/2009	meb
	304		
	105		
	86		
	188		
	189		

**INTERFERENCE SEARCHED**

Class	Subclass	Date	Examiner

**SEARCH NOTES  
(INCLUDING SEARCH STRATEGY)**

	DATE	EXMR
east DB Search	3/6/2009	MEB